



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

HCA HEALTHCARE
6000 NW PARKWAY SUITE 124
SAN ANTONIO, TX 78249

DWC Claim #:

Injured Employee:

Date of Injury:

Employer Name:

Insurance Carrier #:

Respondent Name

TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative Box

54

MFDR Tracking Number

M4-05-4622-10

MFDR Date Received

FEBRUARY 23, 2005

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated January 04, 2005: "Our records indicate that the referenced claim has not been paid according to the contract term as determined by our agreement. OUR RECORDS INDICATE THAT THE CLAIM HAS BEEN UNDERPAID BY: \$29,187.81. TWCC ACCT/ EXP REIM TWCC STOPLOSS 75% OF ALLWD TTL CHRG \$59937.36 @ 75% INS HAS ALLWD \$16,373.20 W/ \$0 PT RESP. "

Amount in Dispute: \$29,187.81

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated November 18, 2004: "...Texas Mutual Insurance Company received notification of the request for dispute resolution from this requester. The following is the carrier's statement with respect to this dispute. This dispute involves the carrier's payment for dates of service in dispute ... This carrier has been provided no information to support that the services rendered were unusually costly or extensive ... Peer review of this file supports a 6 day inpatient stay including the one day post surgery ICU stay. As mentioned earlier this carrier has reimbursed the requester for the 2 day stay that was preauthorized ..."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
May 24, 2004 through June 03, 2004	Inpatient Hospital Services	\$29,187.81	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 27 *Texas Register* 12282, applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- M – No Mar
- 1* YM – The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with Labor Code 413.011 (D). Preauthorization was given for a 2-day length of stay. Documentation submitted does support the injured worker had elevated blood sugar while inpatient. Will allow the 2 pre-authorized at surgical per diem as fair and reasonable pending peer review for medical necessity for length of stay
- JL – Length of stay exceeds number of days previously precertified/preauthorized. Documentation submitted does not substantiate the service billed
- JF – Documentation submitted does not substantiate the service billed
- U – Unnecessary treatment (without peer review)
- YU – This service has been deemed unnecessary medical treatment based on a review of the claim file. Billing records, and/or written review protocols established for appropriate health care treatment
- YM – The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with labor code 413.011(D)
- 6* YM – The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with labor code 413.011 (D). The intent of stop-loss payment is to compensate hospital for inpatient stays that are either costly to the facility by an unusually long length of stay or the provision of unusually costly types of services. The provision of implantables through the facility does not fit either of these situations. Allowed implants at invoice plus 10%
- S – Supplemental payment
- 420 – Supplemental payment
- O – Denial after reconsideration
- 891 – The insurance company is reducing or denying payment after reconsidering a bill
- 282 – The insurance company is reducing or denying payment after reconsidering a bill

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss

method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection..." 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states "...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, (A) (v) of that same section states "...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed..." Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$72,778.18. The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its position statement does not address or mention unusually extensive. The requestor presupposes that it is entitled to the stop loss method of payment. As noted above, the Third Court of Appeals in its November 13, 2008 rendered judgment that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services." The requestor failed to discuss or demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c)(6).
3. In regards to whether the services were unusually costly, the requestor in its position statement does not address or mention unusually costly. The third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The requestor failed to discuss or demonstrate that the particulars of the admission in dispute constitute unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - The length of stay was six days and one ICU/CCU day; however, documentation supports that the Carrier pre-authorized a length of stay of two days in accordance with 28 Texas Administrative Code Rule §134.600. Consequently, the per diem rate allowed is \$1,118.00 for the two authorized days.
 - Review of the medical documentation provided finds that although the requestor billed items under revenue code 278, the invoices provided do not support the cost of the implantables billed. For that reason, no additional reimbursement is recommended.

The division concludes that the total allowable for this admission is \$2,236.00. The respondent issued payment in the amount of \$30,673.20. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to discuss and demonstrate that the disputed inpatient hospital admission involved unusually extensive, and unusually costly services. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	11/6/12
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	11/6/12
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****
Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.